

## ***BAR Enforcement Programs***

JULY 2003

**T**he California Legislature enacted the Automotive Repair Act in 1971 in response to consumer and industry concerns about unacceptable levels of fraud or incompetence in the auto repair market. The Department of Consumer Affairs, Bureau of Automotive Repair (DCA/BAR), was created to spearhead regulation of the auto repair industry. Today, BAR is considered to be the foremost auto repair regulatory agency in the nation, if not the world.

BAR's enforcement team investigates general auto repair complaints and ensures that shops comply with Smog Check statutes. During Fiscal Year 2001/2002, the Department of Consumer Affairs (DCA) received more than 24,000 complaints relating to auto repair and/or Smog Check inspections. DCA/BAR staff checks out **every** complaint and negotiates with the shop on the consumer's behalf to achieve a mutual agreeable resolution. The bulk of complaints are resolved by mediation. During the last Fiscal Year 2001/2002, DCA/BAR returned \$5.3 million to California consumers in the form of direct refunds, rework, or adjustments.

In some cases, however, consumer complaints reveal evidence of serious problems: false and misleading statements, fraud, gross negligence, or other serious violations of the Automotive Repair Act. Complaints with these serious allegations are investigated by BAR's enforcement field staff before settlements are mediated. BAR acts aggressively to combat fraud. In the 2001/2002 Fiscal Year about 630 BAR licensees received formal discipline, mostly for acts of fraud.

**EDUCATION:** Many of BAR's enforcement activities are geared toward case prevention and corrective education. BAR field agents spend a good deal of time working to educate repair dealers and foster voluntary compliance with auto repair laws. Station inspections, verbal warnings, office conferences, educational presentations and "Write It Right" invoice training are typical proactive measures.

**INVESTIGATION:** BAR launches a formal investigation into a shop's practices when consumer complaints or other sources demonstrate allegations of fraud or a pattern of other violations of the Automotive Repair Act. Formal investigations can include vehicle reinspections, undercover operations, surveillance, record reviews and analysis of vehicle information data.

BAR employs its undercover vehicle fleet in its most serious fraud cases. In an undercover run, BAR's expert technicians exhaustively document an undercover car to ensure that it is in optimum running condition, and then induce a defect. An undercover operative then takes the car to the subject shop for repairs. After the operative pays for the repairs that were to be performed, the vehicle is returned to BAR's Documentation Lab for a thorough reinspection.

During this reinspection, the repairs are analyzed. Did the shop correctly diagnose and repair the vehicle? Was the operative pressured to purchase unnecessary parts or services? Did the technician actually perform the service and install the parts that the operative paid for?

BAR also reviews the transaction to determine whether the shop provided a written estimate before starting the repairs and got the customer's authorization for additional parts and service before doing repairs that exceeded the estimate. BAR conducts multiple undercover

*BAR's foremost priority is consumer protection, and BAR employs an aggressive enforcement program as one of the primary tools in its consumer advocacy arsenal.*

*During fiscal year 2001/2002, BAR:*

- *Revoked 337 registrations and licenses*
- *Suspended operations in 251 shops*
- *Placed 38 repair facilities on probation*
- *Returned \$5.3 million to California consumers in refunds, rework, and adjustments*

runs on each subject shop to substantiate the findings and demonstrate a pattern.

The bottom line on BAR undercover operations: BAR acts as a consumer to get real world information about a shop's practices. Are the shop's customers actually getting what they pay for, and is the shop selling only those parts and services its customers really need?

**FRAUD:** Fraud can occur in many forms. In auto body repairs, fraud occurs when the shop lists new replacement parts on the invoice and charges the customer for new parts, but actually installs used parts or simply repairs and reinstalls the damaged part. In transmission repair, consumers are sometimes defrauded when they are talked into unnecessary repairs or charged for parts that were not actually installed. This is one area where consumers are particularly vulnerable. That's because unless the transmission is torn down and inspected after repairs, they have no way of knowing whether they actually needed or even got the parts or services for which they paid.

**FALSE AND MISLEADING STATEMENTS:** BAR can take administrative action against a station or technician for making false or misleading statements to a customer. When a technician uses scare tactics to coerce a customer to authorize unnecessary repairs – a practice BAR calls “oversell” – he or she has violated the Automotive Repair Act. A twist on this scenario involves advertising a service at an incredibly low price. After the customer leaves their car for the low-priced special service, the technician “discovers” problems and convinces the consumer that they need costly, additional – and often unnecessary – parts and service. Another example of a false and misleading statement occurs when the consumer is led to expect that their vehicle will get an official Smog Check inspection, but the technician actually puts the car through an emission sample test, or shortcuts the process by inappropriately aborting the test without completing the visual or functional portions. When this happens, the unwary consumer is left without all of the information that might be necessary to prepare their car to pass a smog inspection. The result can be money wasted on unnecessary repairs.

**LEGAL ACTION:** When a BAR investigation substantiates a significant violation of the Automotive Repair Act, the findings are documented and the resulting case is submitted to the local District Attorney (DA) and/or the state Attorney General (AG) for prosecution. The DA or AG reviews the case and, if appropriate, files a legal action for civil, criminal, or administrative prosecution.

Typical disciplinary actions that result from a formal investigation include revocation of the station's registration or license, suspension of operations for a specified period of time, probation, or any combination of these actions. A disciplinary decision issued by the Director of the Department of Consumer Affairs can order restitution to victims and reimbursement of prosecution and investigation costs. And if shop owners or technicians are convicted of criminal charges brought by a DA, they can wind up doing jail time.

The administrative disciplinary process provides the auto repair dealer, Smog Check station, or licensed Smog Check Technician, due process while giving BAR an avenue for shutting down unscrupulous repair shops – and protects consumers by putting bad operators out of business. During the 2001/2002 Fiscal Year, BAR revoked 337 registrations or licenses, suspended another 251, and placed 38 licensees on probation.

Many enforcement investigations begin with a consumer complaint. To go to our online complaint form [click here](#).